

STATE OF MISSOURI
DEPARTMENT OF NATURAL RESOURCES

DIVISION OF ENVIRONMENTAL QUALITY
P.O. Box 176 Jefferson City, MO 65102-0176

SEP 19 1994

Mr. Dennis Grams
Regional Administrator
U.S. Environmental Protection Agency
Region VII
726 Minnesota Avenue
Kansas City, KS 66101

Date:	Maline Creek
Ref:	MDR 980 631122
Break:	17.9
Other:	MDNR
	9-19-94

RE: Certainited Site (aka Maline Creek Asbestos Site)

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Superfund

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Dear Mr. Grams:

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My staff has evaluated your request for the MDNR (Missouri Department of Natural Resources) to assume the lead role for cleanup of the Certainited site (aka Maline Creek Asbestos site) by utilizing the state's Solid Waste Management Program or other state authority.

MDNR considers the Certainited site a high priority and believes that a cleanup should be implemented as soon as practicable. It is our opinion that CERCLA (Comprehensive Environmental Response, Compensation and Liability Act) provides the most appropriate authority for addressing the site, although if necessary we will utilize state authority to pursue a cleanup of the site.

The site qualifies for action under CERCLA because the ACM (asbestos-containing waste) at this site is a "hazardous substance" as defined by CERCLA, and the site poses a significant threat to public health and the environment. Both the ATSDR (Agency of Toxic Substances and Disease Registry) and MDOH (Missouri Department of Health) have recommended that response actions be taken at the site.

Although the state's SWML (Solid Waste Management Law), Section 260.200 et seq., RSMo, may apply to the site, it does not provide for strict, joint and several liability for PRPs (potentially responsible parties), and does not provide monies for a state-funded cleanup in the event the PRPs do not conduct the cleanup. Under the SWML, the state is limited to pursuing the "dumpers" and the persons who owned the site at the time of the dumping in an attempt to have the landfills "closed". Should these parties not cooperate, the state would have to litigate before a cleanup could be possible. MDNR therefore considers CERCLA most appropriate because of the greater assurance it provides that a cleanup will be conducted.

We therefore request you reconsider the appropriateness of this site as a Superfund candidate. If you agree that Superfund is the appropriate authority, MDNR would be willing to accept lead agency status for a CERCLA cleanup.

Mr. Dennis Grams

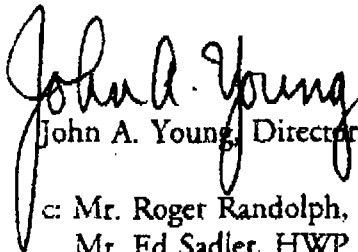
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Additionally, MDNR believes the problems associated with the Certainfeed site are serious enough to warrant an accelerated response under EPA's Removal program. MDNR and MDOH staff have verified the presence of friable ACM eroding from the landfill, in Maline Creek for over a mile of its length, and in areas adjacent to the creek. Also, a children's playground is adjacent to the creek, a residential neighborhood is within several hundred feet of the landfill, and a school is located northeast of the site. The flood of 1993 may have exacerbated erosion from the landfill and released ACM into flooded areas. Apparently, EPA previously evaluated the site as a Removal candidate before offering the state the opportunity for taking over authority of the site.

Should you have any questions or comments regarding this issue, please contact me or Mr. Steve Sturgess of my staff at (314) 751-3176.

Sincerely,

DIVISION OF ENVIRONMENTAL QUALITY



John A. Young, Director

c: Mr. Roger Randolph, APCP
Mr. Ed Sadler, HWP
Mr. Gary T. Behrens, HWP
Mr. Steve Sturgess, HWP
Mr. Darryl Roberts MDOH
Ms. Shelley Woods, AGO
Mr. Mike Potter, SWMP
Mr. Tom Kruse, APCP

JAY:SSI